

REMARKS/ARGUMENTS:

Entry of the above amendments, and reconsideration and further examination of this application as amended is respectfully requested. Please cancel claims 4, 6, 10, 12, 16, 18, 22, 24, 28, 30, 34, and 36 without prejudice or disclaimer of the subject matter contained therein. Claims 1-3, 5, 7-9, 11, 13-15, 17, 19-21, 23, 25-27, 29, 31-33, and 35 remain in the application.

The amendments submitted above to certain claims have been done so either in response to the Examiner's rejections or objections or to correct claim dependency, to correct antecedent basis, to put the claim in conventional form, to correct punctuation, improper word usage, and the like. No new matter has been introduced through any of these amendments.

A. Objections to the Specification For Informalities

1. The Examiner objected to the Oath and/or Declaration as being defective. In response, Applicant is submitting with this response a newly executed Oath and/or Declaration that Applicant believes meets all statutory requirements.
2. The Examiner objected to the title as not being descriptive. Applicant has amended the specification with a new title that Applicant believes is indicative of the invention to which the claims are directed. Withdrawal of the objection is requested.

B. Rejection of Claims Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 1-36 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response to the above rejection, Applicant has cancelled claims 4, 6, 10, 12, 16, 18, 22, 24, 28, 30, 34, and 36 and has made numerous amendments to remaining claims 1-3, 5, 7-9, 11, 13-15, 17, 19-21, 23, 25-27, 29, 31-33, and 35 where a clear antecedent basis for claim elements was lacking or not clear. As a result, Applicant believes that remaining claims 1-3, 5, 7-9, 11, 13-15, 17, 19-21, 23, 25-27, 29, 31-33, and 35, as amended, overcome the Examiner's rejection thereof under 35 U.S.C. §112, second paragraph, and reconsideration of that rejection is respectfully requested.

C. Rejection of Claims
Under 35 U.S.C. § 102(b)

The Examiner has rejected claims 1-36 under 35 U.S.C. §102(b) as being anticipated by Olaf Kirch Kattreinstr., “Linux Network Administrators’ Guide, 1993” (“Olaf”) which is accessible from <http://www.cs.indiana.edu/linux/net/nag.html>.

In response, Applicant has cancelled claims 4, 6, 10, 12, 16, 18, 22, 24, 28, 30, 34, and 36 and has amended independent claims 1, 7, 13, 19, 25, and 31 to more distinctly distinguish Applicant’s invention through the further limitations of:

“ . . . *from at least one database a set of attributes for the email messages;*”

and

“ . . . *so that each of the email messages is stored in a file that contains only email messages with a same said at least one attribute, wherein each said file has a file name that indicates a one or more of said at least one attribute for the email messages in said file name;*”

Support for these amendments may be found in the specification on page 12, line 20 through page 13, line 4 and in reference to FIG. 2, and page 14, line 21 through page 15, line 23 and in reference to FIGS. 3 through 6. The Examiner points to Olaf in a way that is either a misreading, a misunderstanding, or a mischaracterization of Applicant’s claimed invention. Applicants invention identifies a set of attributes for the email messages to be sent. The set of attributes is not limited, as Olaf discloses, to information found in an article header or a mail header (page 125, last four paragraphs). The set of attributes in Applicants invention is drawn from one or more databases containing information related to the email messages, such as the email destination address, the receiving message transfer agent associated with the email destination address, a priority of the email message, a speed of the receiving message transfer agent, a status of the receiving message transfer agent, the location of an email in the queue, a format of the email message, and the MX host information, and a time to live attribute (page 12, line 3, through page 13, line 12). Olaf does not disclose or suggest drawing attributes from one or more databases that contain attribute information about the email messages.

The Examiner asserts that Olaf teaches establishing a transmission criteria for selecting the messages for transmission based on the attributes of the messages. However, Olaf only discloses selecting messages for transmission based on information found in the header (page 127, first two paragraphs under “Delivering News”) or based upon criteria stored in a system file that describes which sites mail is received from and forwarded to. The selection criteria for Applicant’s invention is based on the set of attributes for the email messages drawn from one or more databases containing information related to the email messages.

The Examiner asserts that Olaf teaches determining the set of attributes for each of the messages by referring to the system file. However, the system file controls hierarchies for receiving and forwarding mail, but these hierarchies are not drawn from a previously selected set of attributes derived from the email messages.

The Examiner asserts that Olaf teaches organizing the messages according to the set of attributes for each of the messages. However, Olaf only teaches batching files according to the destination site (page 132, “site” field definition), not organizing files according to the at least one attribute assigned to each of the email messages.

The Examiner asserts that Olaf teaches storing the organized messages on a shared storage device for transmission according to the criteria. However, Olaf does not teach storing organized email messages in individual files that contain only email messages with a same said at least one attribute, nor does Olaf teach giving a file name to each individual file that indicates a one or more of the at least one attribute for the email messages contained in the file in the file name itself.

The Examiner asserts that Olaf teaches selecting the organized messages from the shared storage device for transmission according to the criteria. However, Olaf does not teach giving file names to individual files containing only email messages with a same said at least one attribute, and then selecting, by file name, all of the email messages in the file for transmission.

In light of the above arguments, Applicant submits that Olaf does not teach nor suggest the limitations of Applicants claims, nor the additional limitations added through amendment. Since the Olaf reference does not disclose expressly or inherently all of the elements and limitations of Applicant’s amended independent claims 1, 7, 13, 19, 25, and 31, Applicant

believes that these independent claims are not anticipated by Olaf and respectfully requests withdrawal of the Examiner's rejection under 35 U.S.C. §102(b).

Claims 2, 3, 5, 8, 9, 11, 14, 15, 17, 20, 21, 23, 26, 27, 29, 32, 33, and 35 depend directly or indirectly from independent claims 1, 7, 13, 19, 25, and 31 and include all the elements and limitations thereof. As a result, and in light of the foregoing remarks concerning independent claims 1, 7, 13, 19, 25, and 31, Applicant likewise believes that claims 2, 3, 5, 8, 9, 11, 14, 15, 17, 20, 21, 23, 26, 27, 29, 32, 33, and 35 also overcome the Examiner's rejection based on Olaf under 35 U.S.C. §102(b), and withdrawal of that rejection in respect to these claims is respectfully requested.

CONCLUSION:

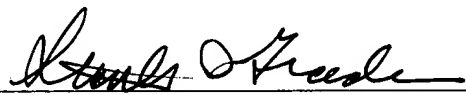
A bona-fide attempt has been made to place this application in condition for allowance. Each of the Examiner's bases for objection and rejection have been addressed and the claims have been amended, canceled, or arguments presented to overcome such rejections. The application is now believed to meet all statutory requirements and is thus believed to be in condition for allowance. The Examiner's early indication to that effect is, therefore, courteously solicited.

If a telephone conference would expedite allowance or resolve any additional questions, such a call is invited at the Examiner's convenience.

Applicant has enclosed a check for fees due with this response. If any additional fees are due with this response, please charge any additional fees due, or credit any overpayment to, deposit account 50-0792.

Respectfully submitted,

Gibson, Dunn & Crutcher LLP

By: 
Stanley J. Gradisar, Esq., Reg. No. 42,598
Attorney for Applicant

Customer No. 22334
Gibson, Dunn & Crutcher LLP
1801 California St., Suite 4100
Denver, CO 80202-2641

Phone: (303) 298-5786
Fax: (303) 296-5310

Date: January 21, 2005